



STATE OF MICHIGAN  
DEPARTMENT OF EDUCATION  
LANSING



JENNIFER M. GRANHOLM  
GOVERNOR

MICHAEL P. FLANAGAN  
SUPERINTENDENT OF  
PUBLIC INSTRUCTION

December 8, 2008

**MEMORANDUM**

**TO:** Intermediate School District Directors of Special Education \*

**FROM:** Jacquelyn J. Thompson, Ph.D., Director  
Office of Special Education and Early Intervention Services

**SUBJECT:** Deviations to the Administrative Rules for Special Education

The enclosed document, *Procedures for Requesting Deviations Under Rule 340.1734, Effective June 6, 2002* (dated December 8, 2008), describes the bases for considering deviations.

Also enclosed is a copy of the Special Education Deviation Request form (Form: DEV 12/08), with attachments for use and distribution to local school districts. The form and attachments are available at the Office of Special Education and Early Intervention Services' (OSE-EIS) web site: <http://www.michigan.gov/mde>.

If you have any questions concerning the deviation process, please contact Ms. Roxanne Balfour, Department Specialist, Program Accountability, OSE-EIS, at (517) 373-1696.

Enclosures

**\*Intermediate school district directors of special education are responsible for electronic and hard copy dissemination of this memorandum and enclosures to local district directors of special education and public school academy administrators.**

OSE-EIS 08-17

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**PROCEDURES FOR REQUESTING DEVIATIONS UNDER  
RULE 340.1734, EFFECTIVE JUNE 6, 2002**

**I. Bases in Rule and Department Policy for Considering Deviation Requests**

A deviation is granted when the best interest of students with disabilities who are affected by the deviation is served, and when there is good cause.

A deviation is granted to provide reasonable flexibility to specific rules when unforeseen events make compliance with rules unfeasible. Deviations are not options for preplanning programs and services or for cost containment. Financial or hardship exemptions are addressed in statute (Section 380.1702 of the Michigan School Code).

A deviation may be granted for the current school year. Extensions for more than one school year may be granted due to extenuating circumstances and after individual case review.

A deviation is not granted to exclude a student with disabilities from participation in required special education programs and services.

A deviation is not granted to avoid or postpone correction of rule violations confirmed through Part 8 of the Administrative Rules for Special Education (Complaints).

If a requesting district is out of compliance at the time of the request, and if the request is denied, the local educational agency/intermediate school district (ISD) must correct the noncompliant situation and provide the Michigan Department of Education (MDE) with a written assurance of correction within 30 *school* days of the denial.

A deviation is public information, provided that information allowing the personal identification of students has been deleted.

At the time the request is made, the ISD Parent Advisory Committee must be provided with a copy of the deviation request and, subsequently, with a copy of the MDE's response. [Rule 340.1734(1)(5)]

If the deviation pertains to a student, the local district of residence must receive a copy of the deviation at the time of its filing. [Rule 340.1734(1)]

**II. Review Procedure**

Initial requests should be complete and comprehensive with respect to the information that the applicant believes is sufficient to grant a deviation. A decision will be based solely on the information provided.

- A. Upon receipt of the completed request, the Office of Special Education and Early Intervention Services' (OSE-EIS) staff will review the request and prepare a recommendation.

- B. The decision is signed by the supervisor of Program Accountability on behalf of the director of the OSE-EIS (within 30 calendar days of receipt of the request).
  - 1. The decision will be either "granted" or "denied."
  - 2. If the deviation is denied, the requesting party will receive a notice including a description of necessary corrective action and response due dates.

### III. Contested Decisions

Any decisions on appeal will be based solely on the information provided at the time of the initial request unless additional information is solicited by the OSE-EIS. Do not send additional information pertaining to an appeal unless the information is specifically requested.

An appeal may be addressed to the Director, Office of Special Education and Early Intervention Services, P.O. Box 30008, Lansing, Michigan 48909.

While the State Board of Education (State Board) reserves its authority to review any administrative decision at the State Board's discretion, the requesting district has no corresponding right to compel such a review.

Michigan Department of Education  
Office of Special Education and Early Intervention Services  
P.O. Box 30008, Lansing, Michigan 48909

**SPECIAL EDUCATION DEVIATION REQUEST****REQUESTING DISTRICT ONLY:**

District Name: \_\_\_\_\_ Building(s) Name: \_\_\_\_\_  
Building(s) Grade Level: \_\_\_\_\_ Type of Program: \_\_\_\_\_  
Program Level: \_\_\_\_ Departmentalized Program \_\_\_\_ Elementary \_\_\_\_ Secondary \_\_\_\_ Early Childhood  
Special Education

Contact Name: \_\_\_\_\_  
Teacher's Name: \_\_\_\_\_ Telephone: \_\_\_\_\_  
Endorsements: \_\_\_\_\_

Rule Number Deviation Request Is For: 340.17 \_\_\_\_\_ Period of Time Deviation Is Needed:  
Date From: \_\_\_\_\_ To: \_\_\_\_\_

Describe Deviation Request (attach all supporting information):

\_\_\_\_\_  
Signature of Requesting Superintendent or Special Education Director \_\_\_\_\_ Date

**IF THIS REQUEST IS DENIED, NECESSARY CORRECTIONS WILL BE MADE WITHIN 30 SCHOOL DAYS**

**ISD ONLY**

ISD Name: \_\_\_\_\_ ISD Contact Person: \_\_\_\_\_  
Telephone number: \_\_\_\_\_

Does the ISD support this request: \_\_\_\_ Yes \_\_\_\_ No

The PAC will be given a copy of this request when it is submitted to the Department: \_\_\_\_ Yes \_\_\_\_ No

The ISD will assist the requesting district in coming into compliance should the request be denied.

\_\_\_\_\_  
Signature of ISD Special Education Director \_\_\_\_\_ Date

**MDE ONLY**

The request is: \_\_\_\_ Granted \_\_\_\_ Denied \_\_\_\_ Withdrawn Effective Dates: \_\_\_\_\_ to \_\_\_\_\_

\_\_\_\_\_  
On Behalf of the Director: Supervisor, Program Accountability \_\_\_\_\_ Date

**ALL DENIED DEVIATIONS MUST BE CORRECTED BY THE REQUESTING DISTRICT WITHIN 30 SCHOOL DAYS**  
Forward the original to the Michigan Department of Education, Office of Special Education and Early Intervention Services.  
Upon MDE, OSE-EIS decision, the three returned copies should go to the ISD, the requesting district, and the PAC.

A DEV form must be completed for each deviation request and for each teacher (ONE REQUEST PER FORM AND TEACHER). Attachments must be included with the DEV to provide particular supporting information. These attachments will differ depending on the rule involved with the request.

A – Class Schedule

B – Hourly Class Size in Departmentalized Program

C – Resident District

D – Teacher's Statement

E – ISD Statement

Other – Footnote

<u>Rule Number</u>	<u>Description</u>	<u>Attachments to DEV</u>					
		A	B	C	D	E	Other
R340.1721c(2)	Post initial IEPT timeline			X		X	
R340.1722a(1)	Timeline for implementing the IEP			X		X	
R340.1722e	IEPT timeline for students enrolling from other school district			X		X	
R340.1733(a)	Classroom square footage; Space for ancillary services			X	X	X	
R340.1733(b)(c)(d)(e)(f)	Student age range at any one time	X		X	X	X	
R340.1738(a)	Staffing pattern for SCI classroom programs	X		X	X	X	
R340.1739(b)	Staffing pattern for MoCI classroom programs	X		X	X	X	
R340.1740	Caseload and per period student maximums – MiCI	X	X	X	X	X	
R340.1741	Caseload and per period student maximums – EI	X	X	X	X	X	
R340.1742(a)	Caseload and per period student maximums – HI	X	X	X	X	X	
R340.1743	Caseload and per period student maximums – VI	X	X	X	X	X	
R340.1744(1)	Caseload and per period student maximums – PI or OHI	X	X	X	X	X	
R340.1745(c)	Caseload – speech/language instructional service	X		X	X	X	*
R340.1746(a)(c)(e)	Timeline for initiating homebound & hospitalized services, maximum caseload, and minimum hours of instructional services	X		X	X	X	
R340.1747	Caseload and per period student maximums – LD	X	X	X	X	X	
R340.1748(1)	Staffing pattern for SXI programs	X		X	X	X	
R340.1749(2)	Caseload – TC	X		X	X	X	
R340.1749a	Caseload and per period student maximums – elementary RR	X		X	X	X	
R340.1749b	Caseload and per period student maximums – secondary RR	X	X	X	X	X	
R340.1749c	Caseload, over average of ten – Departmentalized	X	X	X	X	X	
R340.1754(a)	Age range for early childhood special education classrooms	X		X	X	X	
R340.1754(c)	Caseload and per session student maximums – early childhood special education	X		X	X	X	
R340.1756(1)(b)	Caseload and per student maximums – speech/language program	X		X	X	X	
R340.1757(a)(b)(d)	Timeline for initiating programs, or providing notification, and the number of students in the classroom in juvenile detention facilities	X	X	X	X	X	
R340.1758(1)(a)	Caseload and per period student maximums – AI	X	X	X	X	X	

**\*On the requesting district statement:**

Provide copy of notification to involved parents regarding their right to reimbursement should they contract with private therapists.

**Classroom Schedule**

Teacher: \_\_\_\_\_

Is an aide assigned to the program? \_\_\_\_\_ Yes \_\_\_\_\_ No

Classification: (a) Classroom, (b) Instructional Aide,  
(c) Health Care, for whomAide Name(s): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Student Name	Age (Yr-Mo)	Disability	A.M.			Lunch	P.M.	
			9-10	10-11	11-12		1-3	2-3
			1	2	3		4	5
1.								
2.								
3.								
4.								
5.								
6.								
7.								
8.								
9.								
10.								
11.								
12.								
13.								
14.								
15.								
16.								
17.								
18.								
19.								
20.								

If you have any questions regarding this page, please contact Program Accountability, Office of Special Education and Early Intervention Services, at (517) 373-1696.

**Class Schedule (Departmentalized Program Only)****Note:** This form must be filled out for **all** period(s).

Teacher: \_\_\_\_\_

Instructional Aide(s): \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Period _____ Subject _____ Student Name Age (Yr-Mo) Disability	Period _____ Subject _____ Student Name Age (Yr-Mo) Disability
1.	1.
2.	2.
3.	3.
4.	4.
5.	5.
6.	6.
7.	7.
8.	8.
9.	9.
10.	10.
11.	11.
12.	12.
13.	13.
14.	14.
15.	15.
16.	16.

Multiple copies may be needed if the deviation request spans more than two class periods.

If you have any questions regarding this page, please contact Program Accountability, Office of Special Education and Early Intervention Services, at (517) 373-1696.

## Requesting District Statement

District Name \_\_\_\_\_ Rule Number: 340.17 \_\_\_\_\_

Describe why the deviation is needed and when the need became known.

Describe alternatives that were explored and why each was rejected.

Provide all other information or special circumstances that should be considered regarding this request.

List any deviations for this classroom (approved or denied) by case number:

A. During the previous year:

B. For the present year:

Describe all the beneficial and detrimental effects granting this deviation will have on all the students affected.

\_\_\_\_\_  
Requesting District's Designee

\_\_\_\_\_  
Date

**NOTE:** The initial decision or subsequent decision on appeal will be based solely on the information provided with this request. Therefore, all supporting documentation must be included when the deviation request is initially submitted. Attach extra pages if necessary.



### Teacher's Statement

Describe the effects this deviation would have on the students and for which this deviation is requested, other students who are disabled in the classroom, and staff ability to meet educational needs:

A.) Beneficial:

B.) Detrimental:

Provide any pertinent information regarding this deviation request:

Please check one of the following: \_\_\_\_\_ I support this request.  
\_\_\_\_\_ I do not support this request.

Total Years of Teaching Experience: \_\_\_\_\_

\_\_\_\_\_  
Teacher's Signature

\_\_\_\_\_  
Date

## ISD Statement

The ISD assures that it has reviewed and inquired into the request of this deviation. \_\_\_\_ Yes \_\_\_\_ No.

Please describe your position on the request and the rationale supporting that position.

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ISD Special Education Director

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Date

**NOTE:** The initial decision or subsequent decision on appeal will be based solely on the information provided with this request. Therefore, all supporting documentation must be included when it is initially submitted. Attach extra pages if necessary. This form must be completed and submitted to the MDE, OSE-EIS within seven days of receipt of the request.